**UNITED STATES DISTRICT COURT**
**WESTERN DISTRICT OF TENNESSEE**
**WESTERN DIVISION**

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EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

& Case No. 2:10-cv-02717-JPM-tmp

MAURICE KNOX,

Plaintiff Intervenor, **Jury Demanded**

v.

SKANSKA USA BUILDING, INC.,

Defendant.

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# COMPLAINT OF INTERVENOR PLAINTIFF

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Comes now Maurice Knox and files this Intervening Complaint. As set forth below, Defendant Skanska USA Building, Inc. has violated Mr. Knox's rights under Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981. In support, Mr. Knox would state as follows:

## I. JURISDICTION

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331. All conditions precedent to the institution of this intervening complaint have been fulfilled.

## II. PARTIES

2. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII.

3. Intervening Complaint, Maurice Knox, is a black male residing in Tennessee.

4. At all relevant times, Defendant, Skanska USA Building, Inc., hereinafter (“Defendant Employer”), a New Jersey based corporation, has continuously been doing business in the State of Tennessee and the City of Memphis and has continuously employed at least fifteen (15) employees.

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of 42 U.S.C. § 2000e(b), (g) and (h).

## III. STATEMENT OF FACTS

6. Since at least August 5, 2009, Defendant Employer has engaged in unlawful employment practices at its Methodist Le Bonheur construction site located in Memphis, Tennessee, in violation of 42 U.S.C. § 2000e-2(a)(1) and 42 U.S.C. § 1981. The unlawful employment practices include the verbal and physical harassment of Maurice Knox because of his race, Black.

(a) Mr. Knox was hired by C-1, Inc. Construction Company (referred hereinafter as “C-1”) and assigned to work as a buck hoist operator for the Methodist Le Bonheur construction site operated by Defendant Employer on August 5, 2009.

(b) Defendant Employer was the General Contractor for the construction site and had awarded C-1 with a sub-contract to provide hoist operations. The Construction site had dozens of sub-contractors working on-site with hundreds of employees working each day at the site.

(c) All employees of C-1 assigned to Defendant Employer’s Le Bonheur construction site were African-American.

(d) From the outset of his employment on August 5, 2009, Mr. Knox was subjected to racial slurs and hostile behavior from White workers at Defendant Employer’s Le Bonheur site.

(e) On a daily basis Mr. Knox was called a 'nigger', 'monkey' and other racial epithets by workers at Defendant Employer's work site.

(f) On or about August 10, 2009, Mr. Knox complained to Defendant Employer about the use of racial slurs at the work site.

(g) On or about August 13, 2009, Mr. Knox complained again to Defendant Employer about the use of racial slurs used towards him at the construction site.

(h) Defendant Employer did not take any actions to address Mr. Knox's complaints, and the verbal racial harassment continued unabated.

(i) On or about August 18, 2009, Mr. Knox notified Gerald Neely, the owner of C-1, about the racial harassment.

(j) Mr. Neely met with Defendant Employer on August 19, 2009 and reported the concerns that Mr. Knox reported, as well as concerns raised by other C-1 employees regarding racial slurs and offensive language at the site. Defendant Employer failed to respond.

(k) Later, an unknown employee (believed to be white) threw a mixture of urine, feces and blue chemicals from a portable latrine that landed on Mr. Knox's face and torso.

(l) Defendant Employer did not conduct a formal investigation of the incident.

(m) Thereafter, Mr. Knox received emergency room treatment, and he was diagnosed with an infection known as "conjunctivitis." On or about August 27, 2009, Knox reported severe eye pain to Defendant Employer and was seen by a company-provided physician.

(n) The conduct described above unreasonably interfered with the work performance of Mr. Knox.

7. On or about August 21, 2009, Defendant Employer engaged in unlawful employment practices at its Methodist Le Bonheur construction site located in Memphis, Tennessee, in violation of 42 U.S.C. § 2000e-3(a) and 42 U.S.C. § 1981. The unlawful

employment practices include retaliating against Maurice Knox who had opposed race discrimination.

(a) On or about August 10, 2009, Mr. Knox complained to Defendant Employer about the use of racial slurs at the work site.

(b) On or about August 13, 2009, Mr. Knox complained to Defendant Employer about the use of racial slurs used towards him at the construction site.

(c) On or about August 18, 2009, Mr. Knox notified Gerald Neely, owner of C-1, about the racial harassment, and Mr. Neely scheduled a meeting with Defendant Employer.

(d) Mr. Neely met with Defendant Employer on August 19, 2009 and expressed Mr. Knox's concerns, as well as concerns raised by other C-1 employees about racial slurs and offensive language at the site.

(e) On or about August 21, 2009, Mr. Knox and a White employee were involved in a verbal altercation at Defendant Employer's work site.

(f) The White employee was verbally abusive towards Mr. Knox because he could not ride the buck hoist at a particular time, and then complained to Defendant Employer that Mr. Knox had intentionally delayed him.

(g) Defendant Employer sent Mr. Knox home for the rest of the day without interviewing him or investigating the matter, but the White employee was not disciplined.

(h) On or about September 1, 2009, Defendant Employer issued a policy for the construction site that was applicable only to C-1 employees and prohibited C-1 employees from using cell phones except for emergencies or when on their break.

(i) On or about September 3, 2009, Mr. Knox received a phone call from the treating physician's office for his eye infection to remind him that he had an appointment the next day.

(j) Mr. Knox was standing on the dock and not operating the buck hoist when he received this call.

(k) After completing his call and returning to work, Mr. Knox was immediately terminated by Defendant Employer for taking the phone call.

8. Since at least August 5, 2009, Defendant Employer has failed, in violation of 42 U.S.C. § 2000e-10(a), to post and keep posted notices, which have been prepared or approved by the Commission setting forth excerpts from or summaries of the pertinent provisions of Title VII and information pertinent to the filing of a charge or complaint.

9. The effect of the practices complained of above has been to deprive Maurice Knox of equal employment opportunities and otherwise adversely affect his status as an employee because of his race and his protected activities.

10. As a direct and proximate result of Defendant's unlawful, discriminatory conduct toward Intervening Plaintiff, Intervening Plaintiff has lost wages and benefits and has sustained other pecuniary loss. Defendant's discriminatory and retaliatory practices and threats have been demeaning to Intervening Plaintiff and have caused him to suffer deep pain, humiliation and anxiety.

11. The unlawful employment practices complained of above were and are intentional and/or were and are done with malice or with reckless indifference to the federally protected rights of Maurice Knox.

## IV. CAUSES OF ACTION

12. Intervening Plaintiff incorporates the foregoing paragraphs as though specifically set forth herein, and alleges that:

### Count 1

13. Defendant's actions constitute unlawful intentional discrimination against Intervening Plaintiff on the basis of race in violation of 42 U.S.C. § 2000e-2(a).

**Count 2**

14. Defendant's actions constitute unlawful intentional discrimination against Intervening Plaintiff on the basis of race in violation of 42 U.S.C. § 1981.

**Count 3**

15. Defendant's actions constitute unlawful retaliation for Intervening Plaintiff's protected activity in violation of 42 U.S.C. § 2000e-3(a).

**Count 4**

16. Defendant's actions constitute unlawful retaliation for Intervening Plaintiff's protected activity in violation of 42 U.S.C. § 1981.

## V. PRAYER FOR RELIEF

WHEREFORE, Intervening Plaintiff prays that the following relief by granted:

1. Back pay, lost benefits, and other pecuniary losses proximately caused by Defendant's unlawful conduct;

2. Front pay and the value of future lost benefits since reinstatement is not feasible under the circumstances;

3. Compensatory damages in an amount to be determined by a jury;

4. Punitive damages in an amount to be determined by a jury;

5. All costs, disbursements, pre-judgment interest, post-judgment interest, expert witness fees and reasonable attorney's fees allowed under actions brought pursuant to Title VII and 42 U.S.C. § 1981; and,

6. Such further general relief as is deemed just and proper.

Respectfully submitted,

/s/ *William B. Ryan*

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**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing document has been served via the Court's ECF system on the following attorneys:

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On this the 6th day of December, 2010.

/s/ William B. Ryan